

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN FOX,

Defendant.

Case No. 3:15-cr-00061-HDM-BNW

ORDER

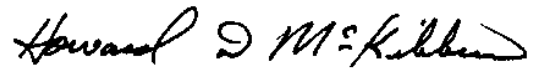
The defendant, Brian Fox, has filed a motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) and Amendment 821 to the United States Sentencing Guidelines (ECF No. 988). On October 9, 2024, the Federal Public Defender filed a "Notice of Non-Eligibility" pursuant to Second Amended General Order 2023-09, indicating that Fox is not entitled to a sentence modification under Amendment 821. (ECF No. 992). The court agrees.

Section 3582(c)(2) allows the court to modify a term of imprisonment for "a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by" a retroactive amendment to the Sentencing Guidelines. See *id.*; U.S.S.G. § 1B1.10(a)(1)-(2). Amendment 821 amended the sentencing guidelines in two ways that have been given retroactive effect. First, U.S.S.G. § 4A1.1 was amended to reduce or eliminate the number of criminal history points counted when an offender commits the instant offense while under a criminal justice

1 sentence, otherwise referred to as "status points." Second,
2 Amendment 821 created a new guideline provision - § 4C1.1 - which
3 provides for a reduction in offense level for certain offenders
4 with zero criminal history points. Fox neither received any "status
5 points" nor was a zero-point offender. Accordingly, Amendment 821
6 had no effect on his guideline range, and he is not therefore
7 eligible for relief under § 3582(c)(2). The motion for sentence
8 reduction (ECF No. 988) must be, and hereby is, DENIED.

9 IT IS SO ORDERED.

10 DATED: This 18th day of October, 2024.

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13 UNITED STATES DISTRICT JUDGE
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